

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Speier Analyst: Gloria McConnell Bill Number: SB 240

Related Bills: _____ Telephone: 845-4336 Introduced Date: 01/26/99

Attorney: Janet Ballou Sponsor: _____

SUBJECT: Child Support Enforcement/Secretary of Statewide Child Support

SUMMARY

This bill would require the Governor to appoint a Secretary of Statewide Child Support (SSCS), who would have oversight and authority over all aspects of California's child support enforcement programs, including Franchise Tax Board's (FTB's) child support collection program. The SSCS would report and serve at the pleasure of the Governor.

EFFECTIVE DATE

This bill would be effective and operative January 1, 2000.

LEGISLATIVE HISTORY

AB 573, AB 1395, SB 247 (1998).

SPECIFIC FINDINGS

The FTB, which is in the State and Consumer Services Agency, consists of the State Controller, the Director of Finance and the Chairman of the State of Equalization. The Franchise Tax Board administers and enforces the personal income, bank and corporation and related tax laws. In addition, FTB collects various non-tax debts as though they are personal income taxes, using tax information sources and tax enforcement remedies. One such debt is delinquent child support as further discussed below.

Title IV-D of the federal Social Security Act requires each state to have a plan that provides for a "single and separate organizational unit" to administer its child support plan. Under California law, the Department of Social Services (DSS) is designated the single organizational unit to administer the state plan for securing child support, and its director is generally required to set forth the related policies (W&IC 11475). The county district attorneys (DAs) are responsible for the enforcement activities, which include the establishment of paternity (W&IC 11475.1). Additionally, under California law, for those child support orders that the DA is responsible for enforcing, the DA:

- may voluntarily refer its current child support orders to FTB for issuance of an assignment order.
- may voluntarily refer its cases that are more than 30 but less than 91 days delinquent to FTB for collection as though they are delinquent personal income taxes.
- is required, unless specifically excepted by DSS, to refer its cases that are 91 days delinquent to FTB for collection as though they are delinquent personal income taxes.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Gerald Goldberg

3/1/1999

All state agencies, including FTB, are required to cooperate with the DAs in furnishing information that will assist in child support enforcement (W&IC 11478). In addition, FTB is required and authorized to furnish tax return information to the Department of Justice (DOJ) (W&IC 11478.5; RTC 19548). The DOJ is designated California's Parent Locator Service (a service required by federal law). It conducts various data searches for DAs with oversight by DSS. The data searches include information exchanges with FTB.

This bill would provide that a SSCS appointed by the Governor would have oversight and authority over all aspects of child support orders being enforced under Title IV-D of the federal Social Security Act, including child support enforcement responsibilities, functions, and duties of the DAs, DSS, DOJ and the FTB.

Implementation Considerations

Under this bill lines of authority may be unclear since the department currently is placed under the State and Consumer Services Agency and reports to a three-member board. In implementing FTB's existing child support collection program and the child support collection financial data match (required by AB 702 [Stats. 97, Ch. 697]), FTB's guidelines were prescribed with DSS oversight, as California's Title-IV agency. To the extent that these programs/processes would continue as currently implemented, this bill could be implemented and administered by FTB without significant problems.

Technical Considerations

To allow the SSCS to have access to the Franchise Tax Board's confidential tax information for the enforcement of child support, the disclosure statutes in the Revenue and Taxation Code would need to be amended since disclosure to that individual is not specifically authorized.

FISCAL IMPACT

To the extent FTB's child support collection program continues undisrupted, this bill should not directly affect FTB's departmental costs or its child support collections.

BOARD POSITION

Pending.